

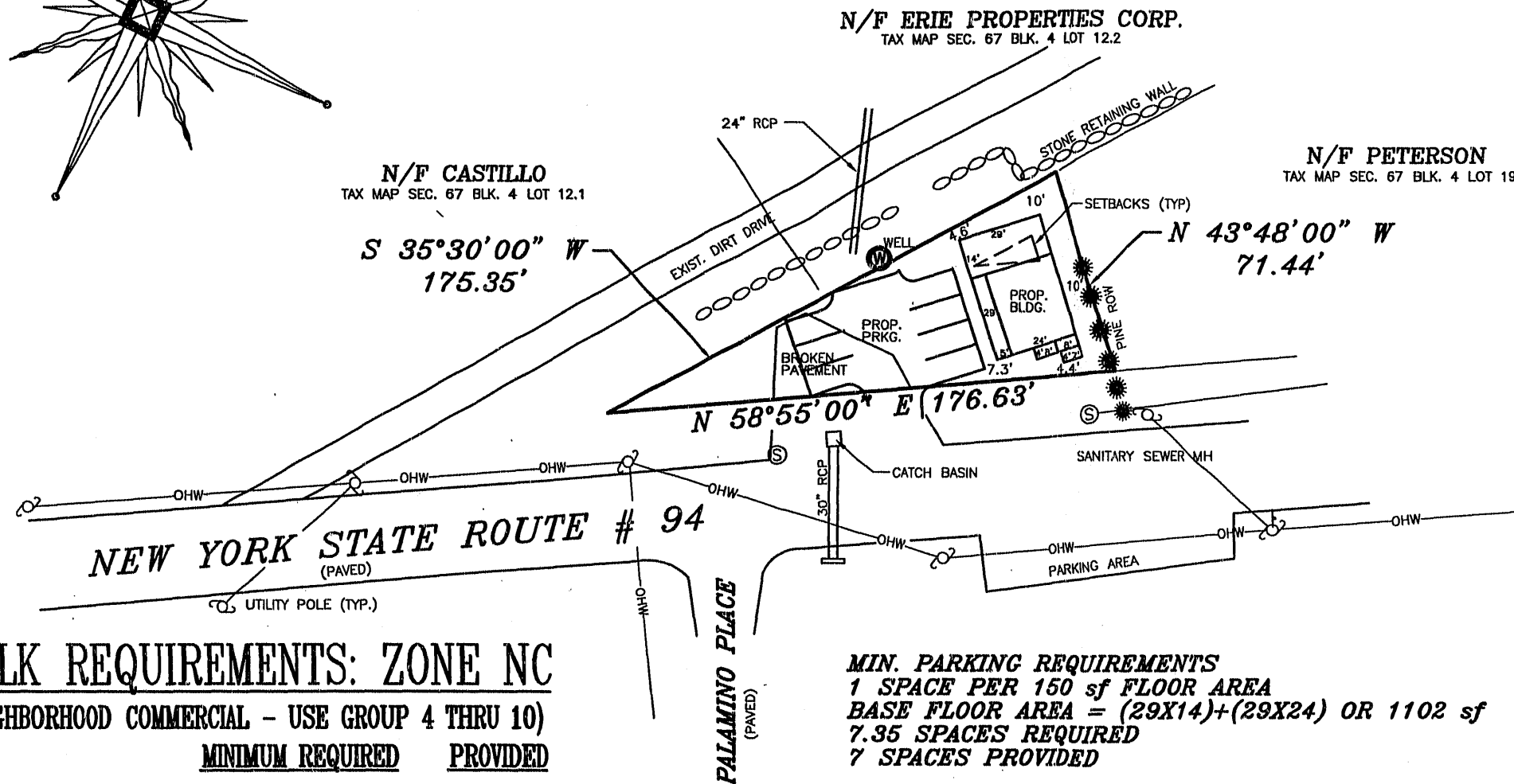
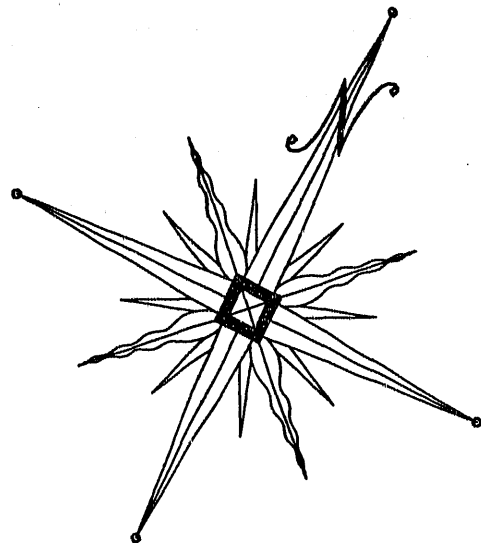
ZB# 04-09

Moshhil, Inc.

67-4-21

ZONING BOARD OF APPEALS
TOWN OF NEW WINDSOR
555 UNION AVENUE
NEW WINDSOR, N.Y. 12553
Granted 3-8-04

ZBA #04-09 MOSHIL, INC. (AREA)
1144 RT. 94 (67-4-21)



NOTES:

1. UNAUTHORIZED ALTERATION OR ADDITION TO A SURVEY MAP BEARING A LICENSED LAND SURVEYOR'S SEAL IS A VIOLATION OF SECTION 7209, SUBDIVISION 2 OF THE NEW YORK STATE EDUCATION LAW.
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DEED LIBER 4106 AT PAGE 284.
DEED LIBER 2898 AT PAGE 52.

AREA = 0.14± ACRES

TAX MAP SEC. 67 BLK. 4 LOT 21

BULK REQUIREMENTS: ZONE NC

(NEIGHBORHOOD COMMERCIAL - USE GROUP 4 THRU 10)

	MINIMUM REQUIRED	PROVIDED
LOT AREA (SQ.FT.)	10,000	6,098
LOT WIDTH (FT.)	100	75
FRONT YARD (FT.)	40	4.4
REAR YARD (FT.)	15	4.6
ONE SIDE YARD (FT.)	15	10
BOTH SIDE YARDS (FT.)	35	N/A
STREET FRONTAGE (FT.)	N/A	N/A
	MAXIMUM ALLOWED	PROVIDED
BUILDING HEIGHT (FT.)	35	35
DEV. COVERAGE (%)	N/A	N/A

MIN. PARKING REQUIREMENTS

1 SPACE PER 150 sf FLOOR AREA

BASE FLOOR AREA = (29X14)+(29X24) OR 1102 sf

7.35 SPACES REQUIRED

7 SPACES PROVIDED

1/21/04	ADD PROP. PRKG.	VAP
1/12/04	SITE PLAN PREPARATION	VAP
3/25/99	ORIGINAL PREPARATION	SPD
DATE	DESCRIPTION	
REVISION BOX		

TITLE: SITE PLAN PREPARED FOR;

MOSHILL, INC.

ADDRESS: N.Y.S. RTE. 94				TITLE #:	
TOWN OF: NEW WINDSOR		COUNTY OF: ORANGE		STATE OF: NEW YORK	
SCALE: 1"=50'	DWG: SPD	CKD: VAP	TAX MAP SECTION 67 BLOCK 4 LOT 21		

DRAWING:
99123SP
REFER TO:
99123.01

PIETRZAK & PFAU
ENGINEERING & SURVEYING, PLLC

51 GREENWICH AVENUE, SUITE A
GOSHEN, NEW YORK 10924
TEL: (914) 294-0606

VINCENT A. PIETRZAK P.L.S.
LICENSE NO. 050075

NEW WINDSOR ZONING BOARD OF APPEALS

SBL: 67-4-21

In the Matter of the Application of

MEMORANDUM OF
DECISION GRANTING

MOSHHIL INC.

AREA

CASE #04-09

WHEREAS, Moshhil Friedman, owner(s) of 1144 Route 94, New Windsor, New York, 12553, has made application before the Zoning Board of Appeals for a/an

3,902 sq. ft. Minimum Lot Area and;	5 ft. Side Yard Setback and;
25 ft. Minimum Lot Width and;	10.4 ft. Rear Yard Setback and;
32 ft. Front Yard Setback and;	4% Floor Area Ratio and;
4 Spaces – Minimum Parking Required	

For Retail Building with Caretaker's Apartment. All at 1144 Route 94 in an NC Zone

WHEREAS, a public hearing was held on March 8, 2004 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, the Applicant, along with Benjamin Ostrer, Esq. appeared on behalf of this Application; and

WHEREAS, there were two spectators appearing at the public hearing; and

WHEREAS, two persons spoke in opposition to the Application; and

WHEREAS, a decision was made by the Zoning Board of Appeals on the date of the public hearing granting the application; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor sets forth the following findings in this matter here memorialized in furtherance of its previously made decision in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and published in The Sentinel, also as required by law.
2. The Evidence presented by the Applicant showed that:
 - (a) The property is a commercial property located in a mixed neighborhood of residential and commercial properties on a busy State Highway.

- (b) The structure that was on the property was torn down without the owner's permission.
- (c) The applicant proposes to reconstruct the building that was on the premises previously with a small reduction in size to accommodate the view of motorists passing on the state highway adjacent to this property.
- (d) The applicant has agreed to rescind the portion of the building measuring approximately 4 feet from the roadway to provide an additional 4 foot 7 inches for the view of motorists on the adjacent highway.

WHEREAS, The Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law here memorialized in furtherance of its previously made decision in this matter:

1. The requested variance(s) will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.
2. There is no other feasible method available to the Applicant that can produce the benefits sought.
3. The variance(s) requested are substantial in relation to the Town regulations but, nevertheless, are warranted.
4. The requested variance(s) will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.
5. The difficulty the Applicant faces in conforming to the bulk regulations is self-created but, nevertheless, should be allowed.
6. The benefit to the Applicant, if the requested variance(s) are granted, outweighs the detriment to the health, safety and welfare of the neighborhood or community.
7. The requested variance(s) are/is appropriate and are/is the minimum variance(s) necessary and adequate to allow the Applicant relief from the requirements of the Zoning Local Law and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
8. The interests of justice will be served by allowing the granting of the requested area variance(s) so long as the following conditions are met:
 - a. The footprint of the property is the old footprint, less the 4 foot concession that was previously made.
 - b. Before construction of any building on the property, approval of the Planning Board must be obtained.

NOW, THEREFORE, BE IT RESOLVED,

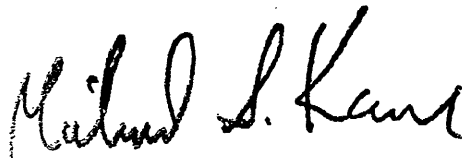
that the Zoning Board of Appeals of the Town of New Windsor GRANT a request for a
3,902 sq. ft. Minimum Lot Area and; 5 ft. Side Yard Setback and;
25 ft. Minimum Lot Width and; 10.4 ft. Rear Yard Setback and;
32 ft. Front Yard Setback and; 4% Floor Area Ratio and;
4 Spaces – Minimum Parking Required

as sought by the Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

BE IT FURTHER

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and/or Building Inspector and Applicant.

Dated: March 8, 2004

A handwritten signature in black ink, appearing to read "Michael S. Kane", is written over a horizontal line.

Chairman



Town of New Windsor

555 Union Avenue
New Windsor, New York 12553
Telephone: (845) 563-4615
Fax: (845) 563-4695

OFFICE OF THE ZONING BOARD OF APPEALS

June 16, 2004

Moshhil, inc.
14 Fillmore Ct. - Unit 201
Monroe, NY 10950

SUBJECT: REQUEST FOR VARIANCE #04-09

Dear Mr. Friedman:

Please find enclosed two copies of the Formal Decision for your case before the Zoning Board of Appeals. Please keep these copies in your records for future reference if needed.

If you are in need of any further assistance or have any questions in this matter, please feel free to contact me at the above number.

Very truly yours,

Myra Mason, Secretary to the
NEW WINDSOR ZONING BOARD

MLM:mlm

cc: Michael Babcock, Building Inspector

OFFICE OF THE BUILDING INSPECTOR
TOWN OF NEW WINDSOR
ORANGE COUNTY, NEWYORK

NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

DATE: January 26, 2004

APPLICANT: Moshhil Inc
PO Box 631
Highland Mills, NY 10930

COPY

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATE: January 13, 2004

FOR : **Reconstruction of Building**

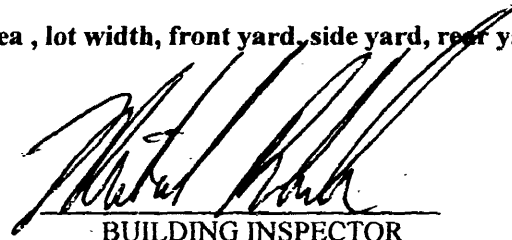
LOCATED AT: 1144 Route 94

ZONE: NC Sec/Blk/ Lot: 67-4-21

DESCRIPTION OF EXISTING SITE: Section 67 Block 4 Lot 21

IS DISAPPROVED ON THE FOLLOWING GROUNDS:

1. Lot does not have minimum required for lot area , lot width, front yard, side yard, rear yard, floor area ratio and parking spaces.



BUILDING INSPECTOR

	PERMITTED	PROPOSED OR AVAILABLE:	VARIANCE REQUEST:
ZONE: NC USE: A4 and B2			
MIN LOT AREA:	10,000 Sq Ft	6,098 Sq Ft	3902 Sq Ft
MIN LOT WIDTH:	100 Ft	75 Ft	25 Ft
REQ'D FRONT YD:	40 Ft	4.4 Ft	35.6 Ft 32'
REQ'D SIDE YD:	15 Ft	10 Ft	5 Ft
REQ'D TOTAL SIDE TD:	35	-----	-----
REQ'D REAR YD:	15 Ft	4.6 Ft	10.4 Ft
REQ'D FRONTAGE:	NA	-----	-----
MAX BLDG HT:	35	35	
FLOOR AREA RATIO:	1	5	4
MIN LIVABLE AREA:	NA	NA	NA
DEV COVERAGE:	NA	NA	NA
MIN PARKING REQ.	11 Spaces	7 Spaces	4 Spaces

cc: Z.B.A., APPLICANT, FILE, W/ ATTACHED MAP

PLEASE ALLOW FIVE TO TEN DAYS TO PROCESS
IMPORTANT
YOU MUST CALL FOR ALL REQUIRED INSPECTIONS OF CONSTRUCTION

Other inspections will be made in most cases but those listed below must be made or Certificate of Occupancy may be withheld. Do not mistake an unscheduled inspection for one of those listed below. Unless an inspection report is left on the job indicating approval of one of these inspections it has not been approved and it is improper to continue beyond that point in the work. Any disapproved work must be reinspected after correction.

RECEIVED

JAN 1 2004

BUILDING DEPARTMENT

1. When excavating is complete and footing forms are in place (before pouring.)
2. Foundation inspection. Check here for waterproofing and footing drains.
3. Inspect gravel base under concrete floors and underslab plumbing.
4. When framing, rough plumbing, rough electric and before being covered.
5. Insulation.
6. Final inspection for Certificate of Occupancy. Have on hand electrical inspection data and final certified plot plan. Building is to be completed at this time. Well water test required and engineer's certification letter for septic system required.
7. Driveway inspection must meet approval of Town Highway Superintendent. A driveway bond may be required.
8. \$50.00 charge for any site that calls for the inspection twice.
9. Call 24 hours in advance, with permit number, to schedule inspection.
10. There will be no inspections unless yellow permit card is posted.
11. Sewer permits must be obtained along with building permits for new houses.
12. Septic permit must be submitted with engineer's drawing and percolation test.
13. Road opening permits must be obtained from Town Clerk's office.
14. All building permits will need a Certificate of Occupancy or a Certificate of Compliance and here is no fee for this.

FOR OFFICE USE ONLY:

Building Permit #: 2004-0034

AFFIDAVIT OF OWNERSHIP AND/OR CONTRACTOR'S COMP & LIABILITY INSURANCE CERTIFICATE IS REQUIRED BEFORE THE BUILDING PERMIT APPLICATION WILL BE ACCEPTED AND/OR ISSUED

PLEASE PRINT CLEARLY - FILL OUT ALL INFORMATION WHICH APPLIES TO YOU

X Owner of Premises Moshkil Inc

X Address 14 FIMORE COURT ⁸⁴⁵ Phone # 781 0681

X Mailing Address MONROE NY 10950 Fax # _____

Name of Architect Rodger Braley

Address _____ Phone _____

Name of Contractor TBI

Address _____ Phone _____

State whether applicant is owner, lessee, agent, architect, engineer or builder Owner

If applicant is a corporation, signature of duly authorized officer. ✓
(Name and title of corporate officer)

1. On what street is property located? On the NORTH side of Route 94
(N, S, E or W)
and Opposite feet from the intersection of 94 & PALMIRO ROAD

2. Zone or use district in which premises are situated _____ Is property a flood zone? Y _____ N _____

3. Tax Map Description: Section 67 Block 4 Lot 21

4. State existing use and occupancy of premises and intended use and occupancy of proposed construction.

X a. Existing use and occupancy _____ X b. Intended use and occupancy _____

5. Nature of work (check if applicable) ☐ New Bldg. ☐ Addition ☐ Alteration ☐ Repair ☐ Removal ☐ Demolition ☒ Other

X 6. Is this a corner lot? _____

RECONSTRUCTION

7. Dimensions of entire new construction. Front 43 Rear 43 Depth 28 Height 26²⁸ No. of stories 2

Mixed use office/Retail & Residential
8. If dwelling, number of dwelling units: _____ Number of dwelling units on each floor _____

Number of bedrooms 3 Baths 3 Toilets 3 Heating Plant: Gas _____ Oil _____
Electric/Hot Air _____ Hot Water _____ If Garage, number of cars _____

9. If business, commercial or mixed occupancy, specify nature and extent of each type of use _____

Ground Fl. - Retail or Office Professional - upper floor Residential

10. Estimated cost 100,000- Fee \$50.00 Cash

ZONING BOARD

File 1-15-18-44
date

APPLICATION FOR BUILDING PERMIT
TOWN OF NEW WINDSOR, ORANGE COUNTY, NEW YORK
Pursuant to New York State Building Code and Town Ordinances

Building Inspector: Michael L. Babcock
Asst. Inspectors: Frank Lisi & Louis Krychew
New Windsor Town Hall
555 Union Avenue
New Windsor, New York 12553
(845) 583-4618
(845) 583-4695 FAX

Blgd Insp Examined: _____
Fire Insp Examined: _____
Approved: _____
Disapproved: _____
Permit No.: _____

INSTRUCTIONS

- This application must be completely filled in by typewriter or in ink and submitted to the Building Inspector.
- Plot plan showing location of lot and buildings on premises, relationship to adjoining premises or public streets or areas, and giving a detailed description of layout of property must be drawn on the diagram, which is part of this application.
- This application must be accompanied by two complete sets of plans showing proposed construction and two complete sets of specifications. Plans and specifications shall describe the nature of the work to be performed, the materials and equipment to be used and installed and details of structural, mechanical and plumbing installations.
- The work covered by this application may not be commenced before the issuance of a Building Permit.
- Upon approval of this application, the Building Inspector will issue a Building Permit to the applicant together with approved set of plans and specifications. Such permit and approved plans and specifications shall be kept on the premises, available for inspection throughout the progress of the work.
- No building shall be occupied or used in whole or in part for any purpose whatever until a Certificate of Occupancy shall have been granted by the Building Inspector.

APPLICATION IS HEREBY MADE to the Building Inspector for the issuance of a Building Permit pursuant to the New York Building Construction Code Ordinances of the Town of New Windsor for the construction of buildings, additions, or alterations, or for removal or demolition or use of property as herein described. The applicant agrees to comply with all applicable laws, ordinances, regulations and certifies that he is the owner or agent of all that certain lot, piece or parcel of land and/or building described in this application and if not the owner, that he has been duly and properly authorized to make this application and to assume responsibility for the owner in connection with this application.

X Mal TH
(Signature of Applicant)

14 Fillmore C.T. Monroe, N.Y. 10950
(Address of Applicant)

X mal TH
(Owner's Signature)

(Owner's Address)

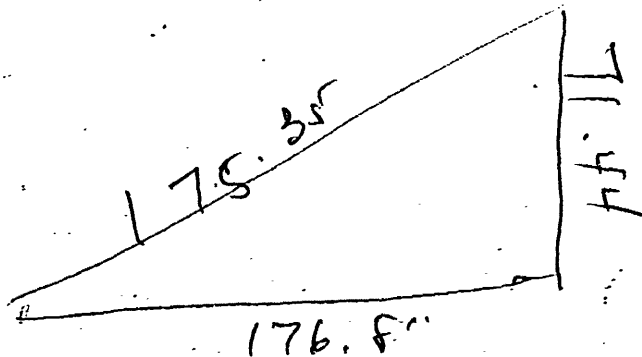
NOTE:

Locate all buildings and indicate all set back dimensions. Applicant must indicate the building line or lines clearly and distinctly on the drawings.

N

See attached

W

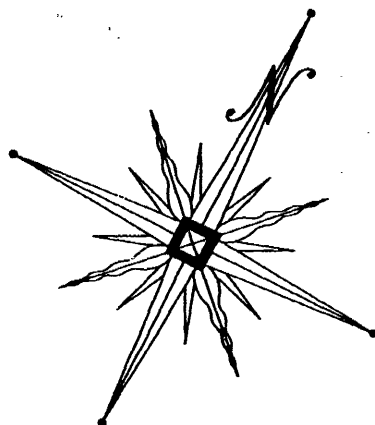


E

Rt 94

S

Palamino



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29 29 29 8 8 7
x 14 x 5 x 24 x 4 x 4 x 4
406 145 696 32 32 28

1339 TOTAL SQ FT

9 SPACES
+ 2 RES

11 SPACES TOTAL

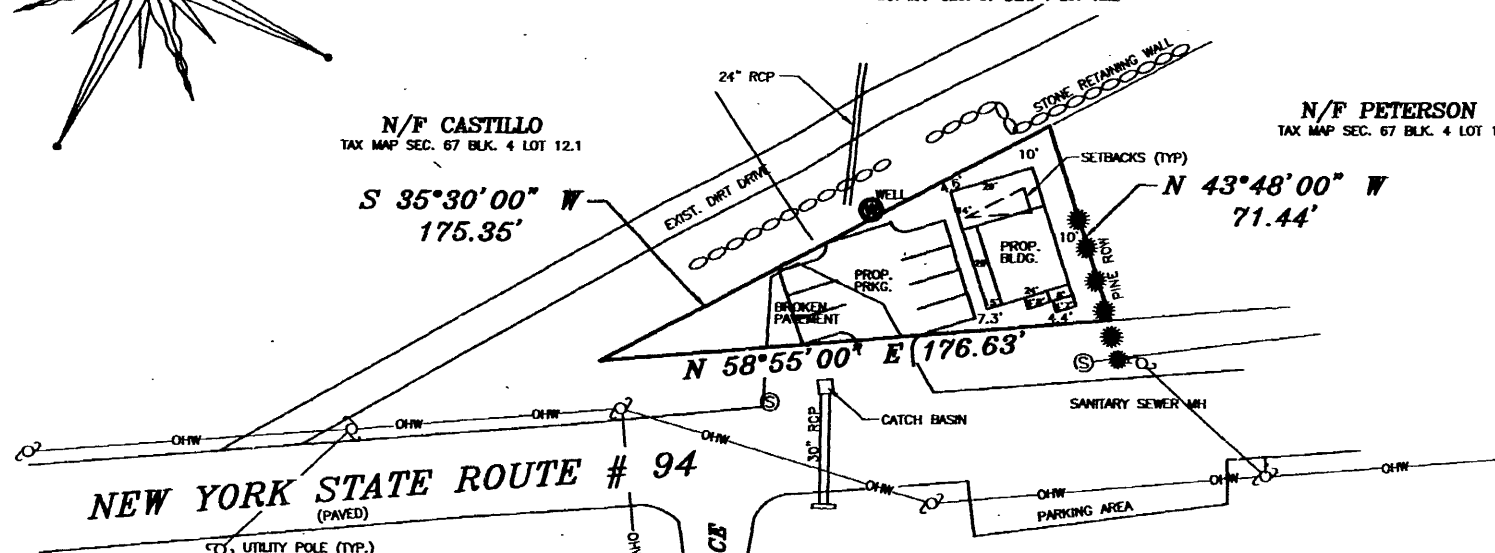
AREA = 0.14± ACRES

TAX MAP SEC. 67 BLK. 4 LOT 21

N/F ERIE PROPERTIES CORP.
TAX MAP SEC. 67 BLK. 4 LOT 12.2

N/F CASTILLO
TAX MAP SEC. 67 BLK. 4 LOT 12.1

N/F PETERSON
TAX MAP SEC. 67 BLK. 4 LOT 19



MIN. PARKING REQUIREMENTS

1 SPACE PER 150 sf FLOOR AREA
BASE FLOOR AREA = (29X14)+(29X24) OR 1102 sf
7.35 SPACES REQUIRED
7 SPACES PROVIDED

SINGLE FAMILY TWO SPACES

RECEIVED

JAN 22 2004

BUILDING DEPARTMENT

BULK REQUIREMENTS: ZONE NC

(NEIGHBORHOOD COMMERCIAL - USE GROUP 4 THRU 10)

	MINIMUM REQUIRED	PROVIDED
LOT AREA (SQ.FT)	10,000	6,098
LOT WIDTH (FT.)	100	75
FRONT YARD (FT.)	40	4.4
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ONE SIDE YARD (FT.)	15	10
BOTH SIDE YARDS (FT.)	35	N/A
STREET FRONTAGE (FT.)	N/A	N/A

	MAXIMUM ALLOWED	PROVIDED
BUILDING HEIGHT (FT.)	35	35
DEV. COVERAGE (%)	N/A	N/A

1/21/04	ADD PROP. PRKG.	VAP
1/12/04	SITE PLAN PREPARATION	VAP
3/25/99	ORIGINAL PREPARATION	SPI
DATE	DESCRIPTION	
REVISION BOX		

TITLE: SITE PLAN PREPARED FOR;

MOSHILL, INC.

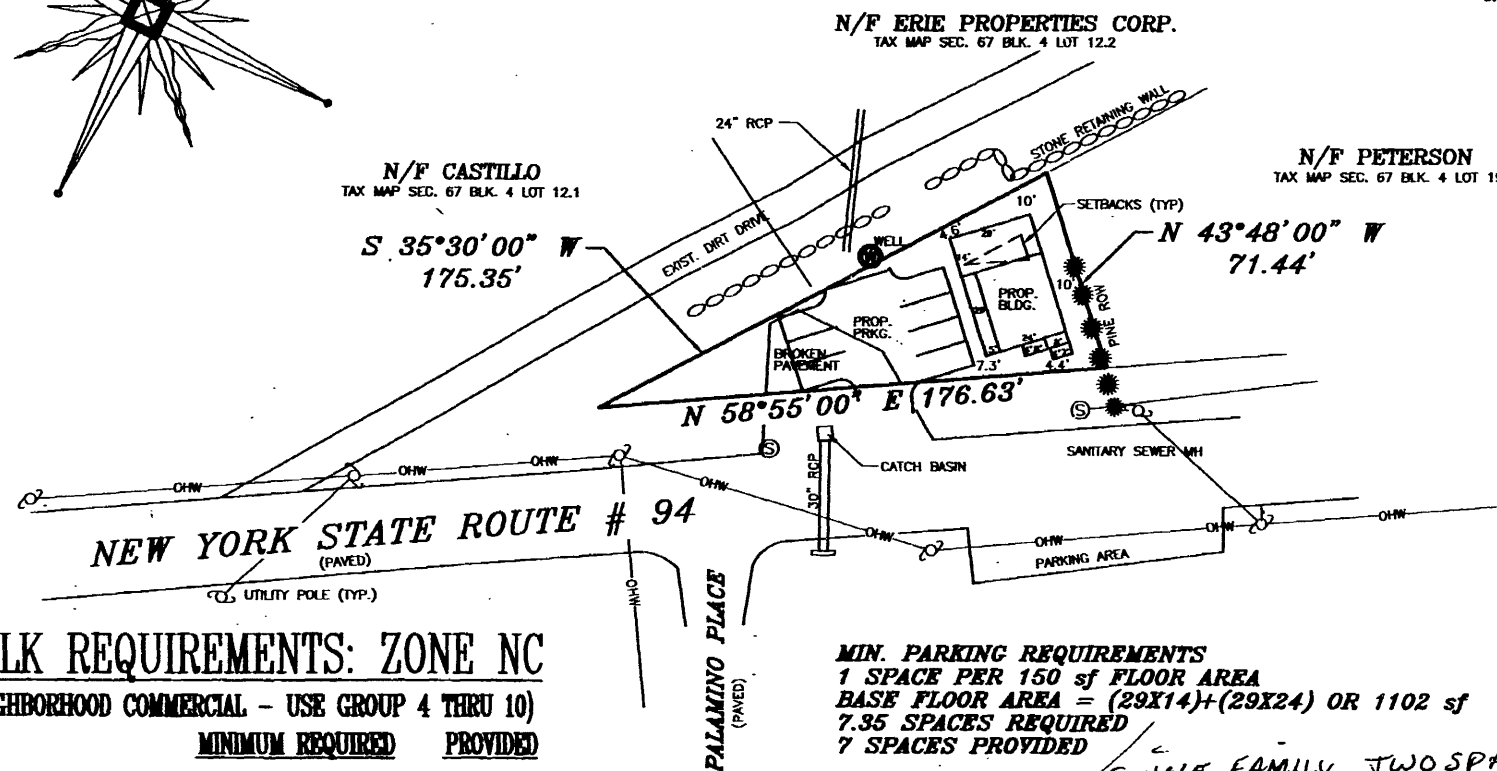
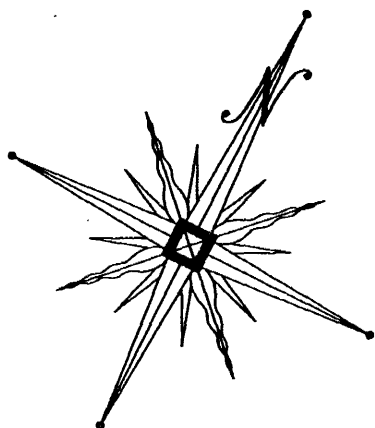
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TOWN OF: NEW WINDSOR		COUNTY OF: ORANGE		STATE OF: NEW YORK	
SCALE: 1"=50'	DWG: SPD	CED: VAP	TAX MAP SECTION 67 BLOCK 4 LOT 21		

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TEL: (914) 294-0806

DRAWING:
99123SP
REFER TO:
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VIRGINIA A. PIETRZAK PLS.
LICENSE NO. 060075



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TAX MAP SEC. 67 BLK. 4 LOT 19

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$$\begin{array}{r} 29 \quad 29 \quad 29 \quad 8 \quad 8 \quad 7 \\ \times 14 \quad \times 5 \quad \times 24 \quad \times 4 \quad \times 4 \quad \times 4 \\ \hline 406 \quad 145 \quad 696 \quad 32 \quad 32 \quad 28 \end{array}$$

1339 TOTAL SQ FT

9 SPACES
+ 2 RES

11 SPACES TOTAL

AREA = 0.14± ACRES

TAX MAP SEC. 67 BLK. 4 LOT 21

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1/12/04	SITE PLAN PREPARATION	VAP
3/25/99	ORIGINAL PREPARATION	SPD
DATE	DESCRIPTION	
REVISION BOX		

TITLE: SITE PLAN PREPARED FOR:

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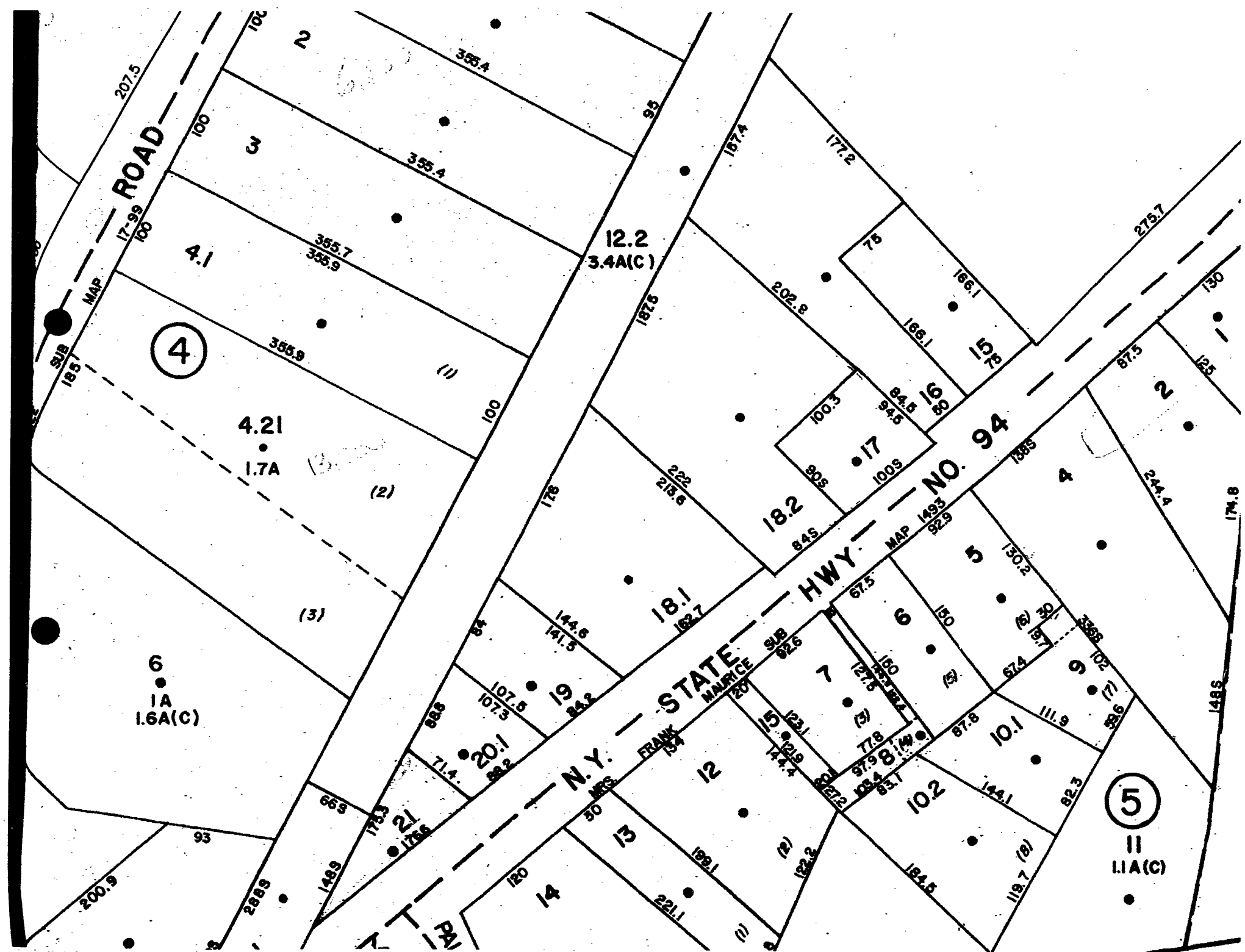
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PIETRZAK & PFAU
ENGINEERING & SURVEYING, PLLC

51 GREENWICH AVENUE, SUITE A
GOSHEN, NEW YORK 10924
TEL: (914) 294-0606

DRAWING:
99123SP
REFER TO:
99123.01

VICTOR A. PIETRZAK P.L.S.
LICENSE NO. 050075



**TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS
OFFICE**

845-563-4615

MEMORANDUM

TO: LARRY REIS, COMPTROLLER
FROM: MYRA MASON, SECRETARY TO THE ZONING BOARD
DATE: MAY 12, 2004
SUBJECT: ESCROW REFUND #04-09

**PLEASE ISSUE A CHECK IN THE AMOUNT OF \$ 81.50 TO CLOSE OUT
ESCROW FOR:**

ZBA FILE #04-09

NAME & ADDRESS:

**Moshil, inc.
14 Fillmore Ct. - Unit 201
Monroe, NY 10950**

THANK YOU,

MYRA

L.R.05-12-04



**TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS
RECORD OF CHARGES & PAYMENTS**



FILE #04-09 TYPE: AREA

APPLICANT Name & Address:

Moshil, inc.
14 Fillmore Ct. - Unit 201
Monroe, NY 10950

TELEPHONE: 781-0687

RESIDENTIAL:	\$ 50.00	CHECK # <u>CASH</u>
COMMERCIAL	\$ 150.00	CHECK # _____
INTERPRETATION	\$ 150.00	CHECK # _____

ESCROW: RESIDENTIAL \$300.00 CHECK # CASH 300.00

Ω Ω Ω Ω Ω Ω Ω Ω Ω Ω Ω Ω Ω Ω

<u>DISBURSEMENTS:</u>		<u>MINUTES</u> <u>\$5.50 / PAGE</u>	<u>ATTORNEY</u> <u>FEE</u>
PRELIMINARY:	<u>9</u> PAGES	\$ <u>49.50</u>	\$ <u>35.00</u>
2 ND PRELIMINARY:	<u> </u> PAGES	\$ <u> </u>	\$ <u> </u>
PUBLIC HEARING:	<u>18</u> PAGES	\$ <u>99.00</u>	\$ <u>35.00</u>
PUBLIC HEARING:	<u> </u> PAGES	\$ <u> </u>	\$ <u> </u>
TOTAL:		\$ <u>148.50</u>	\$ <u>70.00</u>

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ESCROW POSTED: \$ 300.00 CASH
LESS: DISBURSEMENTS: \$ 218.50

AMOUNT DUE: \$

REFUND DUE: \$ 81.50

MOSHHIL INC. #04-05

Moshhil Freidman appeared before the board for this proposal.

MR. KANE: Request for 3,902 square foot minimum lot area, 25 ft. minimum lot width and 25.6 ft. front yard setback and 4 spaces minimum parking required for retail building with caretaker's apartment all at 1144 Route 94 in an NC zone.

Is there anybody in the audience here for this tonight? Joe, you're up. Same as I said before, we'll ask you to state your name when the public hearing is open, please don't repeat and be to the point. Thank you. Sir, you're on.

MR. FREIDMAN: Yes, my name is Moshhil Freidman, I'm the president of the corporation, Moshhil, Inc. My attorney's supposed to come but he told me that he forgot about this. The last time I forgot to come now he forgot to come.

MR. KANE: Do you feel comfortable doing this tonight by yourself?

MR. MOSHHIL: I hope so.

MR. KANE: We can table it.

MR. MOSHHIL: If I see I have trouble, he called me a few minutes ago that I should call him and if it's something a problem and he will come down.

MR. KANE: If at any point you feel uncomfortable, we'll table it and bring it up another evening.

MR. MOSHHIL: Bring it up after Central Hudson.

MR. BABCOCK: He's saying that he will call his attorney now if you push him back, let Central Hudson

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go in front of him. I think he should.

MR. KANE: I'd feel more comfortable with your attorney being here.

MR. BABCOCK: This is a court action, he needs to have a determination tonight because there's a court stipulation, we've got to go back to court if he doesn't, so it would be in everybody's interest if we can just get it done tonight.

MR. KANE: I'd prefer your attorney should be here, he should come. We'll hold the next meeting and put this one off until last.

MR. BABCOCK: Better off.

MR. KANE: Yeah, definitely.

MOSHHIL, INC. #04-05

Benjamin Ostrer, Esq. and Moshhil Freidman appeared before the board for this proposal.

MR. KANE: Request for 3,902 square foot minimum lot area, 25 ft. minimum lot width and 25.6 ft. front yard setback and 4 spaces minimum parking required for retail building with caretaker's apartment all at 1144 Route 94 in an NC zone. You're on.

MR. OSTRER: I'm Ben Ostrer. Essentially, this is to replace I believe as you heard last month the building that was removed the footprint is a comparable footprint to the building that originally improved the property. There's no use variance, well the parking is the pre-existing parking but the uses to be employed in the reconstructed building will be only those that are permitted in the zone. As the board may be aware there was a conditional settlement of some litigation relating to the removal of the building by the Town that's dependent upon Moshhil securing a variance from this board to rebuild in the old building envelope so that's why we're here at the zoning board because we cannot go for site plan, perhaps had we talked to Mr. Crotty before we placed the stipulation before Judge Byrne, the choreography might have been different but as we placed it on the record in Supreme Court, we were, we are seeking the variances for the property before we went to the planning board. And that's why we're before you today so it is an irregularly shaped parcel that had been previously improved by a structure.

MR. KANE: Okay, first issue you have a proposed building right on here and you show on 94, 4 foot, sorry, glasses aren't that good but either 2 or 7 inch square and an 8 foot and 4.8, those 4 little, 3 little squares down on that proposal, they were part of the original house because our pictures do not show that.

MR. OSTRER: These pictures are after the building was removed. Prior to the Town removal of the building, there had been a derelict portion of the building that the Town had required to be removed but there was some enforcement proceedings to remedy littering on the lot and hazardous building and it was during that process that the Town proceeded with the condemnation and took the rest of the building down. So it is the original footprint which you don't, the piece of the building that would stand forward of this there it was a wood frame section that was in front of that that formed the rest of the footprint that's not visible.

MR. KANE: In the preliminary hearing, I had asked about that 4 foot 7 portion that only leaves us 4 foot 4 inches from Route 94, if that was possible to lose that. That will at least give us an 8 foot view for the traffic coming through that would be my, that's my main concern at this point, we're all dealing with restrictions here so--

MR. OSTRER: No, if that's something that the, I guess we'd be lessening the non-conformity by rescinding those additional 4 feet 7 inches, we'll do that.

MR. KANE: In my point of view, this is a lot for traffic going down the road, the safety is where I'm concerned.

MR. OSTRER: We would modify the application to delete the 4.7 feet.

MR. KANE: Okay, I think what we'll do at this point, gentlemen, if you guys are all right, I want to open it up to the public, I don't want to keep these gentlemen up any later than they have to be. At this point, we'll open it up to the public. You gentlemen already filed out the sheets, please come up, state your name and what you have to say.

MR. HOPKINS: My name is George Hopkins, I live at 1156 Route 94. I'm just above the proposed property. You addressed the problem of pulling out on 94, that was one of my questions because they just remodeled 94 and you got the Cornwall school up there and there's a lot more traffic than years ago and that was my concern. I, like I say, I pull out of my own driveway and it takes me, you know, at 9 o'clock in the morning takes me about ten minutes just to pull out of the driveway safely now, I'm worrying about you've only got four parking spots, I don't know what they're going to put in that particular place.

MR. KANE: Right now, they're looking to put a retail store on the bottom with a caretaker apartment on the top. Now you guys also understand everything that's going on with this. All right? No? It will probably make a lot more sense, would you explain what happened?

MR. OSTRER: Yes, if you're a neighbor, you know that the building was in pretty rough shape.

MR. HOPKINS: The Town did the right thing.

MR. OSTRER: What had happened at the time I'm sure the Town believes it did the right thing but the building inspector issued violations and appearance tickets in the local justice court and while certain remedies had been undertaken, proper notice wasn't given to the property owner that the building was being torn down while he was appearing in front of the justices in the local justice court, so rather than pursue the claims against the Town for perhaps wrongfully demolishing the building, we have agreed with the Town so that there would be no future taxpayer expense that if we could rebuild in the footprint a new building which would certainly not have the, wouldn't be the eyesore that was there before that that would end litigation without cost to the Town and would also eliminate any potential

claim because the value of the property has been restored basically by demolishing the building. Given the odd shape of the building and the current setbacks and the zoning, the property would be unbuildable without the variances. So this was a suggestion that of Mr. Goldman who's special counsel to the Town on the matter we thought that it made sense but we needed to have a public hearing so that the neighbors know that we're not, that it's going to be a brand new structure that's code compliant and actually it will be a little bit smaller than the old footprint.

MR. KANE: Am I also, if I remember this correctly, this has also changed hands since this is a new one of the--

MR. OSTRER: There's one of the persons that had been more problematic who's no longer in the property with Mr. Freidman so we have, we're hoping that it will be a nicely paved lot with a, whether it's some sort of retail walk-in office, you know, professional, something of that sort, it may be with the spaces, you're not going to get a mercantile but you may get a walk-in type professional office.

MR. HOPKINS: I'm just worrying, I'm trying to say as you go down the road to the deli and the store there that was approved years ago and it's not enough parking.

MR. KANE: Our options here become they're in front of our board that we cannot see their way and not render any control on how that building is built and have it go back to court where the orders are probably they'll be able to build it on the same footprint anyway without any input from us and just to give you all the facts so you guys can make an informed judgment.

MR. HOPKINS: I'd like to see something there, there was something there and I'm glad--

MR. KANE: When we look at that, there's a little extension that came out only 4 foot from the roadway, they're willing to give that up to make an 8 to 9 foot vision for the vehicles which hopefully will improve not as much as I like but the only thing we can do without going into the main building.

MR. BABCOCK: Mr. Chairman, one thing also if the applicant's successful at the board, he will be required by me to go back for site plan approval at the planning board which they'll look at the entrance and so on and so forth.

MR. KANE: They'll look at all that, too.

MR. HOPKINS: No, at that same planning board, are they looking into the drainage problem that's there too?

MR. BABCOCK: Yes, they will.

MR. KANE: They'll look into everything, that's their job.

MR. HOPKINS: I have been there for over 30 years, even with the new improvements on 94, there's a puddle that sits right in their property.

MR. KANE: Basically, we in the zoning board decide if they can do it, the planning board decides how, okay, and, sir, did you have any questions?

MR. MAYER: Yeah, I guess my one question was I'm a little bit more than, I'm just getting this letter so these are all dimensions that are going to be physically the distance is only going to be four or five feet from the one house? You're saying a variance is actually going to be physically going to be 50 feet between or between buildings and the property?

MR. BABCOCK: In the rear to the railroad tracks it's going to be 4 foot 6 off the property line and from the back, 5 foot side yard means there's only 5 feet between the property line.

MR. KANE: No, they're requesting a 5 foot.

MR. BABCOCK: They're required to have 15, they're proposing to have 10, so they need a variance of 5, so they're going to be 10 foot off the back property line.

MR. KANE: And that's what they're looking to get.

MR. MAYER: So it's actually going to be 5 feet between?

MR. OSTRER: Instead of 15.

MR. MAYER: Richard Mayer, I live at 1113 Route 94, I live maybe two or three properties down the road from this.

MR. KANE: Thank you, sir.

MR. MAYER: My concern is there was nobody there when I moved into the house, I haven't been in there that long and there's been a school built down the road, there's been quite a few houses built on 94 and there's a lot more traffic and I'm constantly sweeping glass from the front of my house because opposite me there's a store area and everybody's stopping to make a left-hand turn. And I'm sure it's going to be the same thing there. And I see it as a safety thing that somebody's got to look into it with the traffic and the volume and whether the people are going to be getting hit or children who are off the school bus right in front of that area there, what's the, is there anybody looking at that?

MR. BABCOCK: Yeah, I would assume and I don't know

this for a fact but I would assume that the planning board, the planning board definitely is going to be looking at it and our engineer is going to look at it and possibly DOT.

MR. KRIEGER: Yes, I would agree with that.

MR. BABCOCK: So the planning board should forward it to the DOT, I'm not going to say they are but that's normally the procedure.

MR. KRIEGER: Whether the planning board does now or not, they'll have to get DOT approval for any state entrance because it's a state highway.

MR. BABCOCK: Right.

MR. OSTRER: I believe there's a curb cut but we would reconfirm that in the planning process.

MR. KRIEGER: For the purposes of answering that question, I'm not intending to limit the applicant as to how you get this or what specific procedures you go through, just indicating for this gentleman's information there is a procedure, somehow DOT has to look at it and say yes, it's okay and no, it's not okay. The procedures for their doing it may vary but the bottom line is they'll have to do something.

MR. MAYER: Where does that come into it before the building is built?

MR. KRIEGER: Now he has two boards to see here and until he gets this being the first assuming that he receives a positive vote here, then he goes to the planning board, he has to go through the planning board procedure which typically is at a minimum of months and they look at all those questions that have been brought up.

MR. MAYER: Is this going to be a question that's going to be raised and put into that review?

MR. KRIEGER: Yes, you understand if he receives an approval here, it says that he can build it, says that he can build something there, that's all it says. And the planning board is going to say what this something is, where you're going to have the entrance, how you're going to have to grade it, how you're going to have to take care of the drainage, how are you going to do all these things. And it's all well and good that you're allowed to build something on this property no bigger than this but how are you going to accomplish all those things and they're going to have to show that one of the things that they're going to have to show is entrance and exit, egress and ingress on and off the property because that's bordering a state highway, that's why the DOT becomes involved. They have get to say yeah, they get to look at it, that's just one of the questions. Before he actually builds something, he has to get a site plan approval from the planning board which means he has to go all the way through the planning board process, nothing gets built on the property until he gets that approval, he needs both the approval of this board and the approval of that board and the DOT, he has to have all that done before he actually gets to put his shovel in the ground.

MR. BABCOCK: There's two things also is all the minutes from this meeting gets forwarded to the planning board and since there's a caretaker's apartment in the building, the planning board will be under special permit, require them to have a public hearing there so you'll be notified when the planning board is looking at it.

MR. HOPKINS: Will we be notified?

MR. BABCOCK: Yes.

MR. MAYER: Is there any variance on height because I'm looking at that and I don't know how high the other building was but it's the square footage is maybe like a 10 x 10 building, something like that.

MR. BABCOCK: No, he's allowed to go 35 feet and that's what he's proposing.

MR. KANE: But you have a better understanding of what's going on with that piece of property cause honestly if there was nothing on that piece of property in preliminary meeting, we probably would have told them they were wasting their time.

MR. MAYER: When we saw all the variances, is this being allowed as a new structure going on?

MR. KANE: We also get a lot of other properties that are in Town that come in and they finally clean up they're old existing things and we get things on the record but they're pre-existing buildings, you see a lot of them in New Windsor. But we try to get everything straightened up in the records on that so--

MR. OSTRER: There's an old curb cut that was the access to the property when the old building was there that if the DOT requires some reconfiguration of it because of the drainage that they have put into 94 or they want the contour of the property to send the drainage back towards the railroad track instead of towards the highway, those are things that will have to be resolved through the building department and through the planning board, so it's not that we leave here and we're going to the building department to get the building permit.

MR. MAYER: My point coming down here first I didn't understand this. The second thing I live right on 94 and I get woken up all the time with cars hitting each other in front of my house, so from a safety point just

it's just adding on to that road that coming down a hill with more and more traffic than it ever was.

MR. KANE: Thank you very much for your input tonight and at this point, we'll close the public hearing and ask Myra how many mailings we had.

MS. MASON: On the 19th of February, I mailed 32 addressed envelopes and I had no responses.

MR. KANE: Mike, on the requested variances do we need to make a change with taking off that little kick-out there?

MR. BABCOCK: Yes, it would reduce the front yard requirement, we would, I don't know if the angle is the same, Mr. Chairman, so I don't, I would say 8 feet, I would change it to 8 foot is what they're going to provide instead of 8 foot 4 because it's measured on an angle, so it's probably shorter than that, that's 4 foot but that's 4 foot this way, not this way, so it would be a request of 32 feet instead of 35 foot 6.

MR. MINUTA: Mr. Chairman, looking at what we have presented to us this evening, we're looking at really what we're looking at is what's the buildable lot area. They had an existing building, there are obviously issues as far as egress and ingress to the property and visuals from that, and I'm wondering if putting the cart before the horse with the footprint of the building just because the building was there initially doesn't mean it's the appropriate footprint for this particular site. It may be more beneficial to propose a building with a different footprint located on the property with certain constraints that would allow them essentially the same buildable area and potentially take care of some issues such as parking, may provide you with more parking, may provide you with other things that we didn't see earlier. Now I don't know how we go about that during this proceeding but those

are my thoughts on this.

MR. KANE: Do you understand what he's saying?

MR. OSTRER: Our difficulty is that as a means of resolving the litigation that was going on between the Town and the property owner, if we, in the planning process, the planning board they reconfigure us and the variance and it's within the variances that you have granted then we can finish at the planning board to their satisfaction and we can get our building permit. If it turns out that they're insistent upon us coming back to you for a further variance and it's something we're willing to do cause it's not gonna further compromise the size of our use at the property, it is conceivable that we'd have to come back to you for a further variance, but given the constraints of the property, it was agreed with Mr. Goldman representing the Town that we would come here to get the variances first. If there was something at the planning board that made sense and it required us to come back here, we understand that we might have to come back but we needed to have something in hand to go to the planning board because planning this site there would be as many people as there are in the board there would be that many opinions and Andy's I think being very generous in saying months I mean without coming to the planning board with variances for the side yards and the like, we would, it would be forever and a day before we would get into a plan that they'd say we like this plan, go now to the zoning board and get your variances. Nobody can like a plan for a pie shaped lot where we're going to go so that's why we're here for these variances. We have agreed to shrink that one, after the building department and the planning board see it, maybe we can squeeze another parking space, maybe our use is going to be limited because we're going to need that for a dry well or we don't know what other structure once we find what the drainage problems are but we really need the variances to go to the planning board and end the

litigation. And it seemed to be a good deal to both of us, we knew we might have to make two passes here but we wanted to at least go to the planning board knowing that we can rebuild. Well, now it will be somewhat smaller than the old footprint, they tell us they want us to spin it or slide it over, but we have the block where it's going to go.

MR. MINUTA: So in respect to that we're looking for a buildable area of the building so yes, we have setbacks and requirements of those items but really what we're looking for is how big can this building be, what's the footprint?

MR. OSTRER: Footprint is the old footprint less the four foot we just gave back because that's what the Town took down.

MR. MINUTA: As a proposition if the size of the footprint is granted and that building is allowed to be moved throughout the lot for the most appropriate location, in other words, there's a litigious aspect that you need to resolve, there's a zoning aspect that we need to resolve and we can come to terms on both of those items I think.

MR. REIS: With some specific language.

MR. OSTRER: If you were to grant us variances no greater than those that applied for, we would, if we slid this around, we'd still have to know that we're going to have to have at least 32 feet in the front yard, we can slid along an area that's 32 feet. Now if the building inspector sent us back here we're on the same page.

MR. KRIEGER: If the planning board makes changes to the configuration of the building, they have to come back here and they know they have to come back here.

MR. OSTRER: We're hopeful we're going to put it in the old location, we think that's the less controversial, we can, we can manage the drainage, we believe given the railroad behind us and capture whatever we need, we think we can satisfy the planning board, we think every time we move it moving it one way creates other problems.

MR. KRIEGER: So I'm not saying that you will or you won't, cause obviously, they don't want to come back to the zoning board.

MR. OSTRER: If we're at the planning board if something happens at the planning board where after the engineers get a look at our hard drawings and say roof drains are going to have to go in another direction or you need to do something else we're obviously going to do that, we want to have a building that works also, we don't want to have a parking lot that's iced over in the winter cause it doesn't drain so we want the property to work, we want to have a decent building that the tenants can pay their rent but without something here we can never get passed the talking stage at the planning board because the confines of the lot, the planning board has to know we're actually rebuilding the old footprint, they want us to slide it, we're more than happy to slide it if they're more experienced than us if they say it's going to work better to have an extra space on the other side.

MR. KRIEGER: The practice of the planning board they'd send, if they went to the planning board first, the planning board would just send it back here for a variance first, they take one look and say it needs variances, go get out of here and go to the zoning board so they're just saving the one appearance out of many.

MR. MINUTA: Now, should we grant this and it comes to bear that there isn't enough sight distance.

MR. KANE: The planning board then will have their say as far as sight distance and if they need to do something else, then they come back, that doesn't meet the setbacks that they may or may not get today, then they have to come back here again.

MR. MINUTA: If we grant the variance for the setback and let's say it's too close to the road but the sight distance that they receive at the planning board stage says it's too close to the road that would be more stringent, would they have to come back to us?

MR. KRIEGER: Yes, cause now they'd be looking for a greater variance.

MR. MINUTA: No lesser variance.

MR. OSTRER: If we push the building back, we'd have a greater variance in the rear and less in the front.

MR. KRIEGER: They wouldn't need a greater variance there. What happens they need a greater variance someplace else.

MR. OSTRER: If that's what the planning board decided they wanted us to have because of the railroad line back there, they want us then zero lot line and grab another few feet in the front.

MR. KANE: They'd be back for that here, there's really no place to move the building without another one, we go with it, let the planning board do it, if that's what you guys vote on. Any other questions?

MR. REIS: Accept a motion?

MR. KANE: That I will.

MR. REIS: I make a motion, first of all, I want to

just for the record I have had dealings with Moshhil Inc. and his company Moshhil Freidman and his company but that will not affect my ability to vote on this.

MR KANE: Thank you for bringing that up.

MR. REIS: Make a motion that we grant Moshhil Inc. their requested variances for the location at 1144 Route 94.

MR. KANE: That would include a 3,902 square foot minimum lot area.

MR. REIS: Twenty-five foot lot minimum. Are we changing the front yard setback--32.0 foot front yard setback, four spaces minimum parking required, five foot side yard setback 10.4 foot rear yard setback and 4 percent floor area ratio and we did the four spaces.

MR. RIVERA: Is that with the caretaker's apartment?

MR. REIS: That's a retail building and caretaker's apartment.

MR. RIVERA: I second it.

MR. OSTRER: Caretaker's apartment would require special use permit, we may get to the planning board and they may say we prefer office space upstairs so the use will be a compliant use, if you need a special use permit, we'll do it at the planning board. It may be that they're going to say put an office upstairs instead of a residence, we're going to work with the planning board and the building inspector on that.

MR. RIVERA: Second it.

ROLL CALL

MR. RIVERA AYE

March 8, 2004

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MR. MINUTA
MR. KANE
MR. REIS

AYE
AYE
AYE



RESULTS OF Z.B.A. MEETING OF: March 8, 2004

PROJECT: Moshkul, Inc ZBA # 04-09
P.B.#



USE VARIANCE: NEED: EAF PROXY

LEAD AGENCY: M) S) VOTE: A N
RIVERA
MCDONALD CARRIED: Y N
REIS
MINUTA
KANE

NEGATIVE DEC: M) S) VOTE: A N
RIVERA
MCDONALD CARRIED: Y N
REIS
MINUTA
KANE

PUBLIC HEARING: M) S) VOTE: A N
RIVERA
MCDONALD CARRIED: Y N
REIS
MINUTA
KANE

APPROVED: M) S) VOTE: A N
RIVERA
MCDONALD CARRIED: Y N
REIS
MINUTA
KANE

ALL VARIANCES - PRELIMINARY APPEARANCE:

SCHEDULE PUBLIC HEARING: M) S) VOTE: A N
RIVERA
MCDONALD
REIS CARRIED: Y N
MINUTA
KANE

PUBLIC HEARING: STATEMENT OF MAILING READ INTO MINUTES ☒

VARIANCE APPROVED: M) RS S) Rv VOTE: A 4 N 0.

RIVERA A
~~MCDONALD~~
REIS A
MINUTA A
KANE A

CARRIED: Y ☒ N

Eliminate the 4' 7" portion on the bldg as shown on the survey.

George Hopkins - Spoke re: entrance onto Rt. 94 + Safety
Richard Mayer - " " Safety + traffic

Change #'s for Front Yard - S/B 32'

TOWN OF NEW WINDSOR ZONING BOARD
PUBLIC HEARING FOR:

Moshkil, Inc. 04-09

DATE: 3-8-04

SIGN-IN SHEET

NAME

ADDRESS

1. George R. Hopkins 1156 RT 94 New Windsor, NY
2. Richard A. Drayler 1113 RT 94 NEW WINDSOR NY
3. _____
4. _____
5. _____
6. _____
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19. _____
20. _____

**ZONING BOARD OF APPEALS: TOWN OF NEW WINDSOR
COUNTY OF ORANGE: STATE OF NEW YORK**

-----X

In the Matter of the Application for Variance of

MOSHHIL, INC.

**AFFIDAVIT OF
SERVICE
BY MAIL**

#04-09

----- X

STATE OF NEW YORK)

) SS:

COUNTY OF ORANGE)

MYRA L. MASON, being duly sworn, deposes and says:

That I am not a party to the action, am over 18 years of age and reside at 67 Bethlehem Road, New Windsor, NY 12553.

That on the 19TH day of **FEBRUARY**, 2004, I compared the 32 addressed envelopes containing the Public Hearing Notice pertinent to this case with the certified list provided by the Assessor's Office regarding the above application for a variance and I find that the addresses are identical to the list received. I then placed the envelopes in a U.S. Depository within the Town of New Windsor.

Sworn to before me this

Myra L. Mason
Myra L. Mason, Secretary

19th day of February, 2004

J. Sean Gallagher
Notary Public

JENNIFER MEAD
Notary Public, State Of New York
No. 01ME6050024
Qualified In Orange County
Commission Expires 10/30/ 2006



Town of New Windsor

555 Union Avenue
New Windsor, New York 12553
Telephone: (845) 563-4631
Fax: (845) 563-4693

Assessor's Office

February 4, 2004

Moshe Friedman
14 Filmore Court Unit 201
Monroe, NY 10950

Re: 67-4-21 ZBA#04-09


Dear Mr. Friedman:

According to our records, the attached list of property owners are within five hundred (500) feet of the above referenced property.

The charge for this service is \$55.00, minus your deposit of \$25.00.

Please remit the balance of \$30.00 to the Town Clerk's Office.

Sincerely,


J. Todd Wiley, IAO
Assessor

JTW/lrd
Attachments

CC: Myra Mason, ZBA

PUBLIC HEARING NOTICE
ZONING BOARD OF APPEALS
TOWN OF NEW WINDSOR

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the TOWN OF NEW WINDSOR, New York, will hold a Public Hearing pursuant to Section 48-34A of the Zoning Local Law on the following Proposition:

Appeal No. 04-09

Request of MOSHHIL, INC.

for a VARIANCE of the Zoning Local Law to Permit:

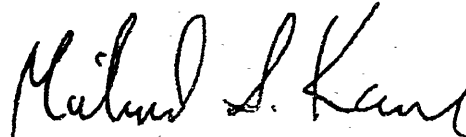
3,902 sq. ft. Minimum Lot Area and;	5 ft. Side Yard Setback and;
25 ft. Minimum Lot Width and;	10.4 ft. Rear Yard Setback and;
35.6 ft. Front Yard Setback and;	4% Floor Area Ratio and;
4 Spaces – Minimum Parking Required	

For Retail Building with Caretaker's Apartment. All at 1144 Route 94 in an NC Zone

for property located at: 1144 Route 94 in an NC Zone

known and designated as tax map Section 67, Block 4, Lot 21

PUBLIC HEARING will take place on March 8th, 2004 at the New Windsor Town Hall, 555 Union Avenue, New Windsor, New York beginning at 7:30 P.M.



Michael Kane, Chairman



Town of New Windsor

555 Union Avenue
New Windsor, New York 12553
Telephone: (845) 563-4631
Fax: (845) 563-4693

Assessor's Office

February 4, 2004

Moshe Friedman
14 Filmore Court Unit 201
Monroe, NY 10950

Re: 67-4-21 ZBA#04-09

Dear Mr. Friedman:

According to our records, the attached list of property owners are within five hundred (500) feet of the above referenced property.

The charge for this service is \$55.00, minus your deposit of \$25.00.

Please remit the balance of \$30.00 to the Town Clerk's Office.

Sincerely,

J. Todd Wiley, IAO
Assessor

JTW/lrd
Attachments

CC: Myra Mason, ZBA

67-1-6
David Barasky
316-A Jutland Drive
Monroe, NJ 08831

67-2-3.11
William Garrison
29 Riley Road
New Windsor, NY 12553

67-2-4
Richard & Ann Bewick
27 Riley Road
New Windsor, NY 12553

67-3-4
Tuan Hai Truong
19 Riley Road
New Windsor, NY 12553

67-4-2
Ronald & Renee Handy
Michael & Donna Handy
54 Riley Road
New Windsor, NY 12553

67-4-3
Nilda Natal
Roberto Alvarez
50 Riley Road
New Windsor, NY 12553

67-4-4.1
Edward Miele
PO Box 116
Station Street
Southfields, NY 10975

67-4-4.21
Michael Miele
40 Riley Road Unit#2
New Windsor, NY 12553

67-4-6
James Duffy
30 Riley Road
New Windsor, NY 12553

67-4-7.11
Pasquale Mugnano
Anna & Virginia Mugnano
2 Cimorelli Drive
New Windsor, NY 12553

67-4-8
Robert Beltempo
16 Riley Road
New Windsor, NY 12553

67-4-9
Frank Messina III
Joseph Messina
637 Beattie Road
Rock Tavern, NY 12575

67-4-10
Leonard & Carol Chidgey
1160 Route 94
New Windsor, NY 12553

67-4-11
George & Edna Hopkins
PO Box 31
Vails Gate, NY 12584

67-4-12.1
Joseph Castelo
PO Box M2108
Hoboken, NJ 07030

67-4-12.2
Erie Properties Corporation
401 South Water Street
Newburgh, NY 12550

67-4-17 & 67-4-18.2
Sandy & Rhoda Ciano
593 Lakeside Road
Newburgh, NY 12550

67-4-18.1
The Ciano Corporation
593 Lakeside Road
Newburgh, NY 12550

67-4-19
Vernon & Brenda Peterson
PO Box 494
Vails Gate, NY 12584

67-4-20.1
Paresh Modh
1136 Route 94
New Windsor, NY 12553

67-5-5
Robert Waltke
Beecher Hill Road
PO Box 137A
Wallkill, NY 12589

67-5-6
Edward Kanemoto
544 Lake Road
Monroe, NY 10950

67-5-7
Richard & Karen Mayer
1113 Route 94
New Windsor, NY 12553

67-5-8 & 67-5-10.1
Arthur Stockdale
140 VT Rte. 117
Jericho, VT 05465

67-5-9
Frank Maurice
14 Maurice Lane
PO Box 366
New Windsor, NY 12553

67-5-10.2
Robert & Victoria Mule
PO Box 565
Vails Gate, NY 12584

67-5-11
Refined Home Renovation Company
C/o Charles O'Kelly
PO Box 2588
Newburgh, NY 12550

67-5-12 & 67-5-13
Frederick & Christine Naclerio
408 Carlton Circle
New Windsor, NY 12553

67-5-14
Kenneth & Patricia Bates
PO Box 294
Vails Gate, NY 12584

67-5-15
County of Orange
255-275 Main Street
Goshen, NY 10924

67-6-1

Santiago & Lidia Monroy
1145 Route 94
New Windsor, NY 12553

67-6-2

Leif Finn Syvertsen
1 Gerow Lane
New Windsor, NY 12553

**TOWN OF NEW WINDSOR
ENGINEER, PLANNING BOARD
AND ZONING BOARD OF APPEALS
OFFICE
845-563-4615**

MEMORANDUM

**TO: MIKE KANE, CHAIRMAN
ZBA MEMBERS**

FROM: MYRA MASON, SECRETARY

DATE: MARCH 2, 2004

SUBJECT: MOSHHIL, INC. – RT. 94

At the last Board meeting, you asked for a copy of the Proceedings for Moshhil, Inc., the structure that was removed by the town on Rt. 94.

For your convenience, I am enclosing a copy of the Proceedings that were submitted with the ZBA Application for your review prior to the Public Hearing on March 8th, 2004.

MLM

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ORANGE

-----X
MOSHHILL INC.

Plaintiff

--against--

TOWN OF NEW WINDSOR

Defendant
-----X

Orange County Supreme Court
255-275 Main Street
Goshen, NY 10924
DEC 17TH, 2003

B E F O R E: HON. THOMAS BYRNE
JUDICIAL HEARING OFFICER

APPEARANCES:

BENJAMIN OSTRER, ESQ.
Attorney(s) for Plaintiff(s)

SEGEL, GOLDMAN, MAZZOTTA & SIEGEL PC
Attorney(s) for Defendant(s)
9 Washington Square
Albany, NY 12205
BY: PAUL J. GOLDMAN, ESQ.

NEIL BOSTOCK, RPR-CM

OFFICIAL REPORTER

04-09

1 THE COURT: All right, gentlemen, we're
2 here with Moshhill Inc. versus the Town of New
3 Windsor.

4 MR. OSTRER: Benjamin Ostrer for the
5 plaintiff.

6 MR. GOLDMAN: Paul Goldman, I'm outside
7 counsel from the firm of Segel, Goldman and
8 Mazzotta from Albany.

9 THE COURT: We had a conference with the
10 attorneys. I believe there is some sort of
11 stipulation.

12 MR. GOLDMAN: Thank you, Your Honor. I
13 would like to spread on the record, subject to
14 the approval of the court, a stipulation of
15 settlement. The instant proceeding involves a
16 claim for wrongful demolition of the
17 plaintiff's property. Plaintiff and defendant
18 have agreed to a following resolution. Trial
19 of the proceeding is adjourned until March 1st
20 2004. Plaintiff would apply for an area
21 variance and install a building and parking on
22 the footprint of the former improvements that
23 existed on the property prior to the
24 demolition. No other area or building code
25 variances will be applied for or permitted in

1 this settlement.

2 Two, the consideration of the area
3 variance will be made by the Planning Board,
4 and the ZBA of the Town of New Windsor in
5 their sole discretion.

6 Three, use of the improvements will be
7 governed by the current permitted uses under
8 the current zoning ordinance of the Town of
9 New Windsor. No use variances, special use
10 permits or claim of preexisting or
11 grandfathered use will be permitted or
12 considered by the Town of New Windsor. If the
13 area variance is granted the town would pay
14 total consideration of four thousand dollars
15 to the petitioner within 30 days of notice of
16 the grant of the area variance.

17 Plaintiff's attorney will be permitted to
18 submit to the defendant's attorney an attorney
19 fee application.

20 Next item, if the area variance is not
21 granted then the petitioner and the defendant
22 shall report back to Supreme Court clerks
23 office for a trial on the merits on March 1,
24 2004.

25 Next item, the parties agree that this

1 stipulation and denial of the area variance
2 contemplated by the stipulation, may not be
3 used as evidence or considered by this court
4 during a trial of the merits.

5 Next item, the stipulation would be kept
6 confidential and may not be disclosed without
7 the written consent of either party absent a
8 court order compelling disclosure.

9 Plaintiff would execute and deliver to
10 the Town a general release of any claims in
11 the event the area variance is granted.

12 This is of course subject to the approval
13 of Judge Byrne.

14 MR. OSTRER: To clarify, the only
15 correction to what Mr. Goldman has spread on
16 the record is that the footprint that we were
17 speaking of would be the footprint of the
18 parcel as it existed when my clients purchased
19 it from the County, which included a small
20 portion of the building, wood frame portion
21 which my clients took down. The lawsuit does
22 not relate to that piece that was taken down,
23 only as to the town's demolition of the
24 remaining, but the footprint that's
25 contemplated for the area variance is the

1 footprint of the building that existed on the
2 premises.

3 MR. GOLDMAN: Prior to the removal of the
4 wood structure.

5 MR. OSTRER: Correct

6 That's fully acceptable to the defendant,
7 to the plaintiff. Mr. Freedman, who was one
8 of the representatives of the plaintiff, is
9 here in the court. He has heard the same
10 spread upon the record, and we appreciate the
11 court's cooperation and assistance in helping
12 us reach this settlement.

13 MR. GOLDMAN: Thank you.

14 THE COURT: Is that correct?

15 MR. OSTRER: Also the settlement on the
16 area variance is intended to include parking
17 as part of the area variance, parking
18 necessary for the building.

19 MR. GOLDMAN: Let me restate that another
20 away. The area variance would include the
21 right to rebuild the parking as existed on the
22 date of demolition.

23 MR. OSTRER: Thank you.


24 THE COURT: All right. That's it. We'll
25 accept it.

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MR. OSTRER: Hopefully we won't see you

March First.

CERTIFIED BY ME TO BE a true and accurate transcript of
the within proceedings,



Neil Bostock, RPR-CM

Official Reporter

MOSHHIL INC. (04-09)

MR. KANE: Request for 3,902 square foot minimum lot area, 25 ft. minimum lot width, 35.6 front yard setback, 5 ft. side yard setback, 10.4 ft. rear yard setback, 4% floor area ratio and 4 spaces minimum parking required for retail building with caretaker's apartment all at 1144 Route 94 in an NC zone.

Michael Meth, Esq. appeared before the board for this proposal.

MR. BABCOCK: They're required to have 11 spaces per my calculation, they're providing 7, so they need a variance of 4.

MR. KANE: And this is for a retail building with a caretaker's apartment at 1144 Route 94 in an NC zone. Okay, sir and you are?

MR. METH: My name is Michael Meth and I represent Moshhil Inc.

MR. KANE: Tell us what you want to do.

MR. METH: Well, we're here, I don't know how much the board knows, we're here as a result of stipulation reached in court and we haven't got to the Town Board yet but we want to come here first and get the variance because there's no point to go to the planning board to get a site plan if we don't get the area variance. As part of the stipulation reached in court with if an area variance is granted that will settle a lawsuit currently pending. If it's not, we first have to go to a trial. That's why we're not incurring the expense of the planning board first. This is a non-conforming lot where there was a structure taken down by the Town and we feel that it was taken down incorrectly and at the time of the sale and what we're asking the board to do is just put up a building in the same footprint of the

building that was there before and that's why we're requesting the area variance. It's not self-created at all. If the old building was there, we would have in our opinion been able to renovate it, get it back to normal. But since the building was taken down, it's now a non-conforming lot again and we have to first start building, the stipulation in court limits what we can do with any site plan to the same footprint, the same setbacks, all the same square footage and everything of the original building that was there and it will just be newer.

MR. KANE: And you're sure these are the requirements that you need? For instance, if this gets passed and then everything goes ahead, you still have to go in front of the planning board and something changes there you need to come back before us that would be a whole new process.

MR. METH: Understood.

MR. MINUTA: Why was the building taken down?

MR. METH: It was a condemnation proceeding. We didn't know it was being taken down. We purchased the property at a foreclosure sale. My clients called me at 3 in the afternoon several weeks after the sale, he just happened to be driving by the property, there was a condemnation crew there, the Town's position there was notices sent and he never appeared to defend them. I myself know that I appeared several times to defend them and we were in the middle of a proceeding and the court for building code violations and then in the middle of the process, we got a court adjournment, and in the middle of the one court date to the next, the building was taken down before it was resolved. So they said it was unsafe. It was bought at a foreclosure sale. My client had plans to gut the place, it was a brick shell and it was going to be gutted on the inside and rebuilt new and before he had

a chance to do that it was taken down.

MR. KANE: The only problem I have with this whole thing in looking at it and just from a safety aspect is that one corner of the building is only four foot six inches off of Route 94. Can you assure us that any traffic heading in I guess that would be the southerly direction on 94 you're going to have, can you show me right here where an exit is going to be for the parking? You don't know that yet?

MR. METH: I haven't seen the traffic study, I know one was done but I assume it's where you just said.

MR. KANE: You're only 4.4 feet off the property line.

MR. METH: That's the other side of the building, right, well, that might be also something that in a traffic study mitigation as part of the planning board process they'll require to the, in other words, if it's, we're asking for a variance for, we're asking for five or six which would be inside.

MR. KANE: That's my main concern, obviously building on the same footprint and putting the building back up probably sounds like the right thing to do, but I do have a concern with that on 94.

MR. MINUTA: Is this site plan reflective of what was existing or--

MR. METH: I believe they used the same footprint but no, it's not what was existing, it's what they want to do now with the building. I don't think it was retail in the past but I'm not positive, I believe it was an apartment building.

MR. KANE: Because this looks like, I'm just trying to read it in my old age, that looks like 4 foot 7. Do you know what these little, is this standing, Mike, do

you know what they are up front there?

MR. BABCOCK: Apparently, it's what the old building was, these little pieces they were little jut-outs on the old building and I guess through the stipulation they want to put back the exact same footprint.

MR. KANE: With being set up for the planning board, I mean for a public hearing, I'd really like them to address that one that's sticking out on the end because if you pull that off then you're getting back out to like almost 8 feet or so depending on the width. I can't tell whether that's width.

MR. BABCOCK: It's 4 foot by 7 is the one that projects closer.

MR. KANE: So it's 4 coming out to the road so that would give you eight foot four inches, that's a heck of a lot better than 4 which I consider very dangerous.

MR. BABCOCK: It's 4 foot by 7 foot long.

MR. REIS: What is it?

MR. BABCOCK: It's part of the building.

MR. MINUTA: The minimum required lot area is 10,000, we have 6,000 provided the former use was apartments.

MR. METH: I believe, I'm going from memory three years back, I believe it was an apartment building, I know it wasn't retail.

MR. KANE: Supposed to be a single family home, it was being used as an apartment.

MR. MINUTA: Legally?

MR. KANE: Illegally, so it can go to a retail with a

caretaker in an NC zone.

MR. BABCOCK: All this legal and illegal use of the building I believe that it was a legal one family dwelling and it was converted to an illegal three family long before this applicant owned it.

MR. KANE: Then I guess it got in such disrepair, Town considered it dangerous and took it down.

MR. MINUTA: So then I would consider this then to be just residential at that point?

MR. BABCOCK: Yes.

MR. MINUTA: Commercial is allowed here?

MR. BABCOCK: It's NC.

MR. KANE: Part of the court proceeding didn't make this a continuation of a non-conforming building in there, that would be interesting.

MR. BABCOCK: I've never seen the court stipulation.

MR. KANE: Everything goes back to square one and they can put up a non-conforming building there.

MR. BABCOCK: I'm sure.

MR. KANE: This just cleans up all the legal aspects which we normally do.

MR. METH: Well, the court didn't address that, I don't want to say it did, the court just assumed that it was going to be something that was built in the footprint, we didn't, then in the court of claims, we didn't even address the non-conforming use, so the stipulation reads very clean, it's very short, just says as long as it's built in the same footprint with the same

requirements of the original building. Doesn't say same requirements. I have a copy of it if the board would like a copy for its files to review.

MR. KANE: Yes, if you could.

MR. METH: I can send a copy.

MR. KANE: You can bring it at the public hearing.

MR. METH: Make a copy for each member but it doesn't talk about whether it can be non-conforming.

MR. KANE: It would be good to have it in the file. The intent of the court is obvious to put it right back in but the request to bring that 4 foot footprint back to an eight foot and do away with the 4 foot 7 thing is kind of appropriate.

MR. METH: That might be a fire escape.

MR. KANE: I'd like to address, that's the only thing that worries me about this whole thing, it's something I'd like to fix while it's there and it has to do with the traffic and 94 is getting to be a busy road plus we have the school so we have more traffic on the road.

MR. METH: This lot goes under an overpass and the lot's right there so--

MR. KANE: What I would like addressed, see if we can do something with that. Any other questions?

MR. REIS: Can you help me out here, what's this?

MR. MINUTA: That's the actual setbacks, I'm assuming.

MR. BABCOCK: That triangle piece in the middle of the building that's where they're allowed to build, that would be the size of the building they would be allowed

to build.

MR. MINUTA: There's a piece that's 14 x 29, that's another building.

MR. BABCOCK: Fourteen by twenty-nine is the same building, yeah.

MR. KANE: But that's the old footprint.

MR. BABCOCK: Well, if you took the setbacks because the lot's a rectangle, that's where they'd be allowed to build.

MR. REIS: The triangle would be the acceptable area?

MR. BABCOCK: That's correct.

MR. METH: The answer to your question is yes and you guys, yes to both.

MR. KANE: We do that.

MR. MINUTA: The court ruled in your favor on this with a footprint?

MR. METH: Well, there was no ruling yet. What I can't remember, Paul Goldman represents the Town of New Windsor, I guess the insurance company of the Town of New Windsor and he entered into a stipulation, right now, the court case isn't over, right now the court case is kind of on pause and with the stipulation says cause we can't build unless we get a use variance as you can see because it's unbuildable.

MR. KRIEGER: An area variance.

MR. METH: Unless you want to put a flag pole but the court case in that court says the stipulation says if we get the variance and we can build on the same

footprint, the case is over. And if we can't, we have a conference date set for the end of March to go back and tell the judge that we couldn't get a variance and the property's unbuildable now and what do we do and then go forward with our case, which is a wrongful condemnation case, cause if the old building was there, we wouldn't be here, we'd be able to build it.

MR. MINUTA: Why was it condemned in the first place?

MR. METH: It was a foreclosure sale, so a lot of it happened before we purchased it. If my memory serves, as soon as we purchased it, I showed up at the court in response to a building code violation and we started, we talked to the building inspector and I have a really thick file on that court case and he gave us a list of things to do, board it up being the first one and stuff like that, what we need to do to get it into compliance. We got an adjournment from the judge to go and fight with the building inspector, we don't want to do this, we'll do this, in the meantime, it got taken down. And it happened with a matter of from the purchase to the court date to when it got taken down was I believe like three weeks, we just happened to come in in the middle of the movie when it was already happening and the judge let us stop it but the communications between the court, the Town attorneys and the ones who called the people to come demolish it there was none. So the right hand didn't know what the left was doing. And it was taken down before we can stop it. I tried to stop it as the crews got there, I put a couple of calls in but, you know, it was in motion, it was a freight train rolling down and it was done before the afternoon was over so and then now three years later, we're still in the court of claims trying to fight about what it was worth before the building was taken down now because of this exact problem that we can't just rebuild so--

MR. KANE: Any other questions?

MR. REIS: Accept a motion?

MR. KANE: Yes, I will.

MR. REIS: Make a motion that we set up Moshhil Inc.
for the requested variances at 1144 Route 94.

MR. MINUTA: Second it.

ROLL CALL

MR. REIS	AYE
MR. MINUTA	AYE
MR. RIVERA	AYE
MR. KANE	AYE



Town of New Windsor

555 Union Avenue
New Windsor, New York 12553
Telephone: (845) 563-4615
Fax: (845) 563-4695

ZONING BOARD OF APPEALS

February 19, 2004

Moshhil, inc.
14 Fillmore Ct. - Unit 201
Monroe, NY 10950

SUBJECT: REQUEST FOR VARIANCE #04-09

Dear Mr. Friedman:

This is just to let you know your Notices for Public Hearing were mailed out and the notice was also sent to The Sentinel Newspaper for publication. **PLEASE NOTE: The Sentinel will bill you directly for this add. This is not included in the escrow you posted upon application.**

Your Public Hearing before the Zoning Board of Appeals for your requested variance at:

1144 Route 94
New Windsor, NY

is scheduled for the March 8th, 2004 agenda.

This meeting starts at 7:30 p.m. and is held in the Town Meeting Room at Town Hall. If you have any questions or concerns in this matter, please feel free to contact me.

Very truly yours,

Myra Mason, Secretary
Zoning Board of Appeals

MLM:mlm

BENJAMIN OSTRER & ASSOCIATES, P.C.

**ATTORNEYS AT LAW
111 MAIN STREET
P.O. BOX 509
CHESTER, NEW YORK 10918**

**TEL: (845) 469-7577
FAX: (845) 469-8690**

BENJAMIN OSTRER

OF COUNSEL

**RAJAT P. MUNDKUR*
MICHAEL D. METH**

**MORIAH M. NIBLACK
ANGELA GARCIA McSWEENEY**

***ALSO ADMITTED IN MISSOURI**

February 10, 2004

Mr. Moshe Friedman
Bnei Yoel
P.O. Box 255
Monroe, NY 10950

Re: Moshhill v. T/O New Windsor

Dear Moshe:

Please be advised that at the Zoning Board of Appeals meeting held last night in the Town of New Windsor your matter was number 2 of the agenda. I appeared on your behalf and on behalf of Moshhill, Inc. After a 20 minute preliminary hearing, the matter was set for a public hearing.

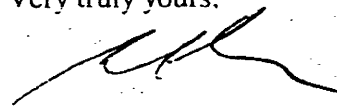
Enclosed please find instructions from the Town of New Windsor as to how to proceed, and be aware that the Zoning Board of Appeals has asked that you be prepared to discuss the following issues at the public hearing. The Board was most interested in the 4x7 piece of property located on the side of the building located closest to Route 94. They also indicated that there is only a 4' setback off of Route 94 and they might be more amenable to granting the area variance should the new Route 94 setback be increased to 6 or 8 feet for safety issues.

Further, the Board asked that you prepare 7 copies of the Stipulation transcript for distribution to the board at the time of the public hearing and that you bring a site plan of the building you plan to construct on the premises.

At the present time there has been no date set for the public hearing, but as soon as you complete the activities listed in the attached letter, you will be placed on the agenda.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,



Michael D. Meth



RESULTS OF Z.B.A. MEETING OF: 2-9-04

PROJECT: MOSH HIL INC ZBA # 04-09
P.B.#

USE VARIANCE: **NEED: EAF** _____ **PROXY** _____

LEAD AGENCY: M) _____ S) _____ VOTE: A _____ N _____
 RIVERA _____
 MCDONALD _____ CARRIED: Y _____ N _____
 REIS _____
 MINUTA _____
 KANE _____

NEGATIVE DEC: M) _____ S) _____ VOTE: A _____ N _____
RIVERA _____
MCDONALD _____ CARRIED: Y _____ N _____
REIS _____
MINUTA _____
KANE _____

PUBLIC HEARING: M) _____ S) _____ VOTE: A _____ N _____
 RIVERA _____
 MCDONALD _____ CARRIED: Y _____ N _____
 REIS _____
 MINUTA _____
 KANE _____

APPROVED: M)____S)____ VOTE: A____ N____
RIVERA _____
MCDONALD _____ CARRIED: Y____ N____
REIS _____
MINUTA _____
KANE _____

ALL VARIANCES - PRELIMINARY APPEARANCE:

SCHEDULE PUBLIC HEARING:

RIVERA	<u>Y</u>
MCDONALD	<u>Y</u>
REIS	<u>Y</u>
MINUTA	<u>Y</u>
KANE	<u>Y</u>

M) REIS S) MINUTA VOTE: A N

CARRIED: Y 4 N

PUBLIC HEARING: STATEMENT OF MAILING READ INTO MINUTES

VARIANCE APPROVED: M)___ S)___ VOTE: A___ N___.

RIVERA _____
MC DONALD _____
REIS _____
MINUTA _____
KANE _____

CARRIED: Y_____N_____.

[illegible]



Town of New Windsor

555 Union Avenue
New Windsor, New York 12553
Telephone: (845) 563-4615
Fax: (845) 563-4695

ZONING BOARD OF APPEALS

February 3, 2004

Moshhil, inc.
14 Fillmore Ct. - Unit 201
Monroe, NY 10950

SUBJECT: REQUEST FOR VARIANCE #04-09

Dear Mr. Friedman:

This letter is to inform you that you have been placed on the February 9, 2004 agenda for the Zoning Board of Appeals to discuss your request for a variance at:

1144 Route 94
New Windsor, NY

This meeting starts at 7:30 p.m. and is held in the Town Meeting Room at Town Hall. If you have a problem with this time and/or date, please contact me at the above number and we will reschedule your appearance. If you have any further questions, please feel free to contact me.

Very truly yours,

Myra Mason, Secretary
Zoning Board of Appeals

MLM:mlm

Sent By: Town of New Windsor;

845 563 4692;

Dec-30-03 3:22PM;

Page 1/2

Received: 12/30/03 2:01PM;

845 562 0417 -> TOWN OF NEW WINDSOR

DEC-30-03 14:05

FROM: SEGEL GOLDMAN MAZZOTTA PC

518-462-0417

T-813 P. 02/03 F-825

SEGEL, GOLDMAN, MAZZOTTA & SIEGEL, P.C.*Attorneys and Counselors at Law*9 WASHINGTON SQUARE
ALBANY, NEW YORK 12205

TELEPHONE: (518) 452-0941

FAX: (518) 452-0417

Paul J. Goldman
pgoldman@sgmlbany.com

December 30, 2003

**PRIVILEGED AND CONFIDENTIAL
VIA TELECOPIER AND U.S. MAIL**Mr. George J. Meyers
Town Supervisor
Town of New Windsor
555 Union Avenue
New Windsor, New York 12553Philip A. Crotty, Esq.
Duggan, Crotty & D
535 Union Avenue
New Windsor, NewRe: Moshii, Inc. v. Town of New Windsor
Orange County Index No.: 2000-2786

Gentlemen:

On December 17, 2003, the undersigned appeared before Judge Byrne in New York State Supreme Court, Orange County, in Goshen. We spread upon the record a stipulation of settlement which has the following high points:

- (1) The trial on the merits is adjourned until March 1, 2004;
- (2) Plaintiff would apply for an area variance to install a building and parking on the footprint of the former improvements that existed on the property. No other area or building code variances will be applied for or permitted. The consideration of the area variance will be made by the Planning Board and the Zoning Board in its sole discretion;
- (3) The use of improvements would be covered by the current list of permitted uses under the zoning ordinance. No use variance, special use permit or claim of preexisting or grandfathered uses will be permitted or considered by the Town;
- (4) If the area variance is granted, the Town would pay a total consideration of \$4,000 to the petitioner within thirty (30) days of the notice of the decision. If the area variance is not granted to the petitioner, then we report back for trial on the merits on March 1, 2004;
- (5) The parties agree that the stipulation and denial of the area variance could not be used as evidence in the trial on the merits.

TO:
Mynar
563-4695
PAC

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

RECEIPT OF ESCROW RECEIVED:

DATE RECEIVED: 01-30-04

FOR: ESCROW 04-09

FROM: MOSHIL, INC.

14 FILLMORE CT. - UNIT 201

MONROE, NY 10950

CHECK NUMBER: CASH

AMOUNT: 300.00

RECEIVED AT COMPTROLLER'S OFFICE BY:

Carol Harris 1/30/04
NAME DATE

PLEASE RETURN SIGNED COPY TO MYRA FOR FILING

THANK YOU

Town of New Windsor
555 Union Avenue
New Windsor, NY 12553
(845) 563-4611

RECEIPT
#100-2004

01/30/2004

Moshhill, Inc.
P O Box 631
Highland Mills, NY 10930

Received \$ 50.00 for Zoning Board Fees, on 01/30/2004. Thank you for
stopping by the Town Clerk's office.

As always, it is our pleasure to serve you.

Deborah Green
Town Clerk



TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NY 12553
(845) 563-4615 (MYRA MASON)

#04-09



ZONING BOARD PROCEDURES

**PLEASE READ PAGE ONE AND TWO OF THIS PACKAGE AND SIGN PAGE TWO
IT EXPLAINS THE PROCEDURE TO BE FOLLOWED FOR YOUR APPLICATION.**

PLEASE COMPLETE THE ATTACHED APPLICATION FORMS WHERE IT APPLIES TO YOUR SITUATION AND RETURN TO MYRA MASON (845-563-4615) AT THE ZONING BOARD OFFICE (LOCATED IN THE PLANNING BOARD & ENGINEERING OFFICE IN TOWN HALL) WITH THREE CHECKS MADE PAYABLE TO "THE TOWN OF NEW WINDSOR" AS FOLLOWS:

RESIDENTIAL: (Three Separate Checks Please)

APPLICATION FEE:	\$ 50.00
*ESCROW:	\$300.00
** <u>DEPOSIT</u> FOR PUBLIC HEARING LIST:	\$ 25.00

MULTI-FAMILY: (Three Separate Checks Please)

APPLICATION FEE:	\$150.00
*ESCROW:	\$500.00
** <u>DEPOSIT</u> FOR PUBLIC HEARING LIST:	\$ 25.00

COMMERCIAL: (Three Separate Checks Please)

APPLICATION FEE:	\$150.00
*ESCROW:	\$500.00
** <u>DEPOSIT</u> FOR PUBLIC HEARING LIST:	\$ 25.00

INTERPRETATION: (Three Separate Checks Please)

APPLICATION FEE:	\$150.00
*ESCROW:	\$500.00
** <u>DEPOSIT</u> FOR PUBLIC HEARING LIST:	\$ 25.00

YOU WILL THEN BE SCHEDULED FOR THE NEXT AVAILABLE AGENDA FOR YOUR "PRELIMINARY MEETING".

*

ESCROW

IS TO COVER OUTSIDE PROFESSIONAL FEES SUCH AS ZBA ATTORNEY FEE, MINUTES OF YOUR PORTION OF THE MEETING, ETC. THE BALANCE WILL BE RETURNED TO YOU UPON CLOSING FILE.

THE APPLICANT WILL BE BILLED DIRECTLY FOR THE PUBLIC HEARING ADVERTISEMENT IN THE "SENTINEL NEWSPAPER"

**

LIST OF PROPERTY OWNERS
WITHIN 500 FT. RADIUS OF
PROPERTY IN QUESTION:

APPROXIMATE COST FOR
PUBLIC HEARING LIST:

1-10 NAMES	25.00
11-20 NAMES	35.00
21-30 NAMES	45.00
31-40 NAMES	55.00
41-50 NAMES	65.00
51-60 NAMES	75.00
61-70 NAMES	85.00
71-80 NAMES	95.00
81-90 NAMES	105.00
91-100 NAMES	115.00

ANYTHING OVER 100 NAMES
IS \$1.00 EA. ADDITIONAL
NAME

RECEIVED
TOWN OF NEW WINDSOR

FEB - 2 2004

ENGINEER & PLANNING

PAGE 1

04-09

FOLLOWING YOUR PRELIMINARY MEETING, THE ZONING BOARD SECRETARY WILL ORDER YOUR "PUBLIC HEARING LIST" FROM THE ASSESSOR'S OFFICE.

1. WHEN THE ASSESSOR'S OFFICE NOTIFIES YOU THAT YOUR LIST IS READY, YOU MUST COME IN AND PAY THE BALANCE DUE FOR THE LIST. (THIS WILL BE PREPARED ON LABELS FOR YOUR CONVENIENCE).
2. PREPARE AN ENVELOPE (self-sealing envelopes are much appreciated) FOR EACH LABEL WITH YOUR RETURN ADDRESS AND A REGULAR \$.37 STAMP. BRING THE PREPARED ENVELOPES AND A COPY OF THE LIST TO THE ZONING BOARD SECRETARY FOR MAILING. YOUR PUBLIC HEARING DATE WILL BE SCHEDULED AT THIS TIME.

NOTE:

IF IT IS EASIER FOR YOU, YOU CAN BRING THE ENVELOPES WITH YOU WHEN YOU PICK UP AND PAY FOR YOUR LIST. YOU CAN PUT THE LABELS ON AT THAT TIME AND BRING THEM TO THE ZBA OFFICE FOR COMPLETION.

*** * MUST READ AND SIGN * ***

I UNDERSTAND THAT I WILL BE BILLED DIRECTLY FOR MY "LEGAL NOTICE" TO BE PUBLISHED IN THE SENTINEL NEWSPAPER FOR MY PUBLIC HEARING....(this charge is not deducted from your escrow posted).

Mal
SIGNATURE

Jan /27/04
DATE

NOTE:

THE ZBA MEETS ON THE 2ND AND 4TH MONDAY OF EACH MONTH UNLESS A HOLIDAY FALLS ON THAT DATE. (JULY AND AUGUST - ONE MEETING PER MONTH ONLY)



**TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS**



APPLICATION FOR VARIANCE

Jan 27 / 04
Date

Application Type: Use Variance ☐ Area Variance ☐
Sign Variance ☐ Interpretation ☐

I. Owner Information:

Phone Number: (445) 781 0687
Fax Number: () 783 1472
Moshhil Inc.
(Name)
14 Fillmore CT. Monroe NY, 10950 unit 201
(Address)

II. If Moving to New Address, please list forwarding address for return of escrow:

Phone Number: () 469 7577
Fax Number: ()
(Name)
(Address)

III. Attorney:

Phone Number: () 469 7577
Fax Number: () 469-8690
Begman Otter
(Name)
P.O. Box 509 Chester NY, 10918
(Address)

IV. Contractor/Engineer/Architect/Surveyor/:

Phone Number ()
Fax Number ()
(Name)
(Address)

V. Property Information:

Zone: N.C. Property Address in Question: 1144 Route 94
Lot Size: 6098 Tax Map Number: Section 67 Block 4 Lot 21
a. What other zones lie within 500 feet? _____
b. Is pending sale or lease subject to ZBA approval of this Application? _____
c. When was property purchased by present owner? 89
d. Has property been subdivided previously? no If so, When: _____
e. Has an Order to Remedy Violation been issued against the property by the Building/Zoning/Fire Inspector? no
f. Is there any outside storage at the property now or is any proposed? no

****PLEASE NOTE:****

THIS APPLICATION, IF NOT FINALIZED, EXPIRES ONE YEAR FROM THE DATE OF SUBMITTAL.

04-09

COMPLETE THIS PAGE ☐

**TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS**

APPLICATION FOR VARIANCE - continued

VIII. AREA VARIANCE: (This information will be on your Building Department Denial form you receive)

Area Variance requested from New Windsor Zoning Local Law,

	<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Min. Lot Area	10,000 sq ft	6098 sq ft	3902 sq ft
Min. Lot Width	100 ft	75	25 ft
Reqd. Front Yd.	40 ft	4.4	35.6 ft
Reqd. Side Yd.	15 ft	10	5 ft
Reqd. Rear Yd.	15 ft	4.6 ft	10.4 ft
Reqd. St Front*			
Max. Bldg. Hgt.	35	35	
Min. Floor Area*	●	●	●
Dev. Coverage*			
Floor Area Ratio**	1	5	4
Parking Area	11	7	4

*Residential Districts Only

**Non-Residential Districts Only

PLEASE NOTE:

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COMPLETE THIS PAGE ☐

**TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS**

APPLICATION FOR VARIANCE - continued

- IX. In making its determination, the ZBA shall take into consideration, among other aspects, the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. Also, whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue other than an area variance; (3) whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created.

After reading the above paragraph, please describe why you believe the ZBA should grant your application for an Area Variance:

Court Decision

PLEASE NOTE:

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COMPLETE THIS PAGE ☐

XII. ADDITIONAL COMMENTS:

- (a) Describe any conditions or safeguards you offer to ensure that the quality of the zone and neighboring zones is maintained or upgraded and that the intent and spirit of the New Windsor Zoning Local Law is fostered. (Trees, landscaped, curbs, lighting, paving, fencing, screening, sign limitations, utilities, drainage.)
-
-

XIII. ATTACHMENTS REQUIRED:

- ☐ Copy of contract of sale, lease or franchise agreement. Copy of deed and title policy.
- ☐ Copy of site plan or survey showing the size and location of the lot, the location of all buildings, facilities, utilities, access drives, parking areas, trees, landscaping, fencing, screening, signs, curbs, paving and streets within 200 ft. of the lot in question.
- ☐ Copies of signs with dimensions and location.
- ☐ Three checks: (each payable to the TOWN OF NEW WINDSOR)
 - ☐ One in the amount of \$ 300.00 or 500.00 , (escrow)
 - ☐ One in the amount of \$ 50.00 or 150.00 , (application fee)
 - ☐ One in the amount of \$ 25.00 , (Public Hearing List Deposit)
- ☐ Photographs of existing premises from several angles. (IF SUBMITTING DIGITAL PHOTOS PRINTED FROM COMPUTER – PLEASE SUBMIT FOUR(4) SETS OF THE PHOTOS.)

XIV. AFFIDAVIT.

STATE OF NEW YORK)

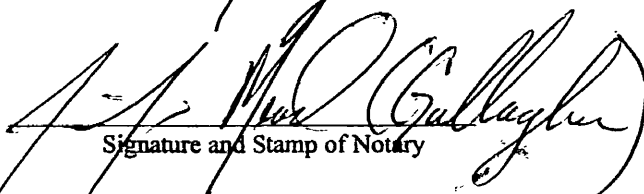
) SS.:

COUNTY OF ORANGE)

The undersigned applicant, being duly sworn, deposes and states that the information, statements and representations contained in this application are true and accurate to the best of his/her knowledge or to the best of his/her information and belief. The applicant further understands and agrees that the Zoning Board of Appeals may take action to rescind any variance granted if the conditions or situation presented herein are materially changed.

Sworn to before me this:

30th day of January 2004.


Signature and Stamp of Notary


Owner's Signature (Notarized)

Moshe Friedman
Owner's Name (Please Print)

JENNIFER MEAD
Notary Public, State Of New York
No. 01ME6050024
Qualified in Orange County (Not Owner)
Commission Expires 10/30/2006

PLEASE NOTE:

THIS APPLICATION, IF NOT FINALIZED, EXPIRES ONE YEAR FROM THE DATE OF SUBMITTAL.

COMPLETE THIS PAGE ☐

04-09